

# EXHIBIT D

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NEW YORK MICROSCOPE COMPANY, INC.,

Plaintiff,

Case No. 23-cv-03718

-against-

BYERS HOLDING GROUP LLC, and  
USA CAPITAL FUND, LLC d/b/a USA MEDICAL  
SUPPLY,

**FIRST SET OF  
INTERROGATORIES TO  
DEFENDANT USA CAPITAL  
FUND, LLC d/b/a USA  
MEDICAL SUPPLY**

Defendant.

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**PLEASE TAKE NOTICE**, that pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (the “Civil Rules”) and the corresponding Local Rules of the United States District Court for the Eastern District of New York (the “Local Rules”), Plaintiff New York Microscope Company, Inc. (“Plaintiff”) requests that Defendant USA Capital Fund, LLC d/b/a USA Medical Supply, (“USA Medical” or “Defendant”) respond to the following interrogatories under oath in accordance with Civil Rule 33(b).

**DEFINITIONS AND INSTRUCTIONS**

1. Plaintiff hereby incorporates the Uniform Definitions in Discovery Requests contained in Rule 26.3 of the Local Rules in addition to the following definitions:
2. The term “USA Medical” refers to Defendant USA Capital Fund, LLC d/b/a USA Medical Supply, its attorneys, employees, agents, officers, directors, managers, supervisors and any other persons acting under the name or authority of USA Medical.
3. The term “Byers” refers to Defendant Byers Holding Group LLC, its attorneys, employees, agents, officers, directors, managers, supervisors and any other persons acting under the name or authority of Byers.

4. The term “Defendants” refers to Byers and USA Medical, collectively.
5. The term “PPE” refers to personal protective equipment.
6. The term “Action” refers to the action entitled *New York Microscope Company, Inc. v. Byers Holding Group, LLC, et al.*, E.D.N.Y. Case No. 23-cv-3718.
7. The term “Amended Complaint” refers to the Amended Complaint filed by Plaintiff on August 26, 2024 (Doc. 23).
8. The term “USA Medical Counterclaim” refers to the counterclaim in the Answer and Counterclaim filed by USA Medical on September 16, 2024 (Doc. 27).
9. The term “Contract” refers to the agreement entered into between Plaintiff and Byers dated September 25, 2022 that is the subject of this Action.
10. The time period for these Interrogatories shall be from January 1, 2022 through the time of trial unless otherwise stated.
11. These Interrogatories shall be continuing, and supplemental responses shall be served in accordance with Civil Rule 26(e).
12. The grounds for objecting to an Interrogatory must be stated with specificity.
13. If You object to any of these Interrogatories in part, Defendant shall answer the portion of the Interrogatory to which the objection does not apply.
14. In the event that the information requested by these Interrogatories has been destroyed or discarded, that information is to be identified by stating: (a) its date of destruction or discard, manner of destruction or discard, and reason for the destruction or discard; and (b) the persons who authorized and carried out such destruction or discard.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1**

Identify all persons participating in the preparation of answers to these interrogatories and specify which answers or responses each person contributed to.

### **INTERROGATORY NO. 2**

State the name, address, and business telephone number of each person with personal knowledge regarding the facts and circumstances surrounding the happenings of the occurrences referred to in the Amended Complaint and the USA Medical Counterclaim.

### **INTERROGATORY NO. 3**

Explain how USA Medical calculated the damages alleged in the USA Medical Counterclaim, provide a computation of the alleged damages and identify all documents relied upon in making said calculations.

### **INTERROGATORY NO. 4**

Identify any and all agreements between USA Medical and Byers relating to the purchase and sale of PPE.

### **INTERROGATORY NO. 5**

Identify any and all common interest and/or joint defense agreements between USA Medical and Byers as it relates to this Action and the claims in the Complaint.

### **INTERROGATORY NO. 6**

Identify all communications by and between USA Medical and Byers relating to this Action and the claims in the Complaint.

**INTEROGATORY NO. 7**

Identify each person whom you expect to call at trial as a fact witness.

Dated: Mineola, New York  
January 23, 2025

**MELTZER, LIPPE, GOLDSTEIN &  
BREITSTONE, LLP**  
*Attorneys for Plaintiff*

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